

Page 1 of 2

EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NO.: 2006-1872-PST-E TCEQ ID: RN102482346 CASE NO.: 31582
RESPONDENT NAME: Brazos Valley Petroleum Corporation dba In & Out 7

ORDER TYPE:		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input checked="" type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p>SITE WHERE VIOLATION(S) OCCURRED: In & Out 7, 100 West Freeway, Vidor, Orange County</p> <p>TYPE OF OPERATION: Convenience store with retail sales of gasoline</p> <p>SMALL BUSINESS: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: A complaint was received on August 23, 2006, from an individual alleging that the gasoline he purchased from the Respondent contained water. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: A complaint was received, but the complainant has not expressed a desire to protest this action or to speak at Agenda.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on April 16, 2007. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Ms. Deana Holland, Enforcement Division, Enforcement Team 1, MC 169, (512) 239-2504; Mr. Steven Lopez, Enforcement Division, MC 219, (512) 239-1896 Respondent: Mr. Mohammad Sultan, President, Brazos Valley Petroleum Corporation, 100 West Freeway, Vidor, Texas 77662 Respondent's Attorney: Not represented by counsel on this enforcement matter</p>		

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation: <input checked="" type="checkbox"/> Complaint <input type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: August 23, 2006</p> <p>Date of Investigation Relating to this Case: August 29, 2006</p> <p>Date of NOE Relating to this Case: October 20, 2006 (NOE)</p> <p>Background Facts: This was a complaint investigation. Three violations were documented.</p> <p>WASTE</p> <p>1) Failed to report a suspected release to the TCEQ within 24 hours of the discovery. Specifically, the water intrusion within the super unleaded tank on June 2, 2006 indicated a suspected release that was not reported [30 TEX. ADMIN. CODE § 334.72(2)].</p> <p>2) Failed to maintain all underground storage tank ("UST") records and make available for inspection to Commission personnel upon request. Specifically, the required records for inventory control, water level checks, overfill prevention, financial assurance, annual line leak detector test and release detection were not available [30 TEX. ADMIN. CODE § 334.10(b)].</p> <p>3) Failed to immediately investigate and confirm a suspected release of regulated substances at a UST within 30 days [30 TEX. ADMIN. CODE § 334.74(3)].</p>	<p>Total Assessed: \$12,600</p> <p>Total Deferred: \$2,520 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid (Due) to General Revenue: \$408 (remaining \$9,672 due in 24 payments of \$403 each)</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Ordering Provisions:</p> <p>The Order will require the Respondent to:</p> <p>a. Within 30 days after the effective date of this Agreed Order:</p> <p>i. Establish and implement a process for reporting a suspected release;</p> <p>ii. Conduct an investigation of the suspected release and implement appropriate corrective measures; and</p> <p>iii. Begin maintaining all UST records,</p> <p>b. Within 45 days after the effective date of this Agreed Order, submit written certification and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provisions a.i through a.iii.</p>



Policy Revision 2 (September 2002)

Penalty Calculation Worksheet (PCW)

PCW Revision May 19, 2005

DATES	Assigned	23-Oct-2006	Screening	30-Oct-2006	EPA Due	
	PCW	01-Feb-2007				

RESPONDENT/FACILITY INFORMATION

Respondent	Brazos Valley Petroleum Corporation dba In & Out 7		
Reg. Ent. Ref. No.	RN102482346		
Facility/Site Region	10-Beaumont	Major/Minor Source	Minor Source

CASE INFORMATION

Enf./Case ID No.	31582	No. of Violations	3
Docket No.	2006-1872-PST-E	Order Type	1660
Media Program(s)	Petroleum Storage Tank	Enf. Coordinator	Deana Holland
Multi-Media		EC's Team	Enforcement Team 7
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)

Subtotal 1 \$12,000

ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History 5% Enhancement Subtotals 2, 3, & 7 \$600

Notes Enhancement due to one NOV with same or similar violations.

Culpability No 0% Enhancement

Subtotal 4 \$0

Notes The respondent does not meet the culpability criteria.

Good Faith Effort to Comply 0% Reduction

Subtotal 5 \$0

	Before NOV	NOV to EDRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	X	(mark with a small x)

Notes The respondent does not meet the good faith criteria.

Economic Benefit

0% Enhancement*

Subtotal 6 \$0

Total EB Amounts	\$139
Approx. Cost of Compliance	\$700

*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7

Final Subtotal \$12,600

OTHER FACTORS AS JUSTICE MAY REQUIRE

Adjustment \$0

Reduces or enhances the Final Subtotal by the indicated percentage. (Enter number only; e.g. -30 for -30%.)

Notes

Final Penalty Amount \$12,600

STATUTORY LIMIT ADJUSTMENT

Final Assessed Penalty \$12,600

DEFERRAL

20% Reduction

Adjustment -\$2,520

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes

Deferral offered for expedited settlement.

PAYABLE PENALTY

\$10,080

Screening Date 30-Oct-2006 **Docket No.** 2006-1872-PST-E **PCW**
Respondent Brazos Valley Petroleum Corporation dba In & Out 7 *Policy Revision 2 (September 2002)*
Case ID No. 31582 *PCW Revision May 19, 2005*
Reg. Ent. Reference No. RN102482346
Media [Statute] Petroleum Storage Tank
Enf. Coordinator Deana Holland

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	1	5%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgements or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were</i>	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Please Enter Yes or No

Adjustment Percentage (Subtotal 2) 5%

>> Repeat Violator (Subtotal 3)

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

Enhancement due to one NOV with same or similar violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 5%

Screening Date 30-Oct-2006	Docket No. 2006-1872-PST-E	PCW
Respondent Brazos Valley Petroleum Corporation dba In & Out 7	<i>Policy Revision 2 (September 2002)</i>	
Case ID No. 31582	<i>PCW Revision May 19, 2005</i>	
Reg. Ent. Reference No. RN102482346		
Media [Statute] Petroleum Storage Tank		
Enf. Coordinator Deana Holland		
Violation Number	<div style="border: 1px solid black; text-align: center;">1</div>	
Primary Rule Cite(s)	<div style="border: 1px solid black; text-align: center;">30 Tex. Admin. Code § 334.72(2)</div>	
Secondary Rule Cite(s)	<div style="border: 1px solid black; text-align: center;"></div>	
Violation Description	<div style="border: 1px solid black; padding: 5px;">Failed to report a suspected release to the TCEQ within 24 hours of the discovery. Specifically, the water intrusion within the super unleaded tank on June 2, 2006 indicated a suspected release that was not reported.</div>	
Base Penalty		<div style="border: 1px solid black; text-align: center;">\$10,000</div>

>> **Environmental, Property and Human Health Matrix**

		Harm			
	Release	Major	Moderate	Minor	
OR	Actual	<div style="border: 1px solid black; width: 60px; height: 15px;"></div>	<div style="border: 1px solid black; width: 60px; height: 15px;"></div>	<div style="border: 1px solid black; width: 60px; height: 15px;"></div>	Percent <div style="border: 1px solid black; width: 60px; height: 15px;"></div>
	Potential	<div style="border: 1px solid black; width: 60px; height: 15px;"></div>	<div style="border: 1px solid black; width: 60px; height: 15px;"></div>	<div style="border: 1px solid black; width: 60px; height: 15px;"></div>	

>> **Programmatic Matrix**

	Falsification	Major	Moderate	Minor	
	<div style="border: 1px solid black; width: 60px; height: 15px;"></div>	<div style="border: 1px solid black; width: 60px; height: 15px; text-align: center;">X</div>	<div style="border: 1px solid black; width: 60px; height: 15px;"></div>	<div style="border: 1px solid black; width: 60px; height: 15px;"></div>	Percent <div style="border: 1px solid black; text-align: center;">10%</div>
Matrix Notes	<div style="border: 1px solid black; padding: 5px;">100% of the rule requirement was not met.</div>				

Adjustment

-\$9,000

Base Penalty Subtotal

\$1,000

Violation Events

Number of Violation Events	<div style="border: 1px solid black; text-align: center;">1</div>	
mark only one use a small x	daily	<div style="border: 1px solid black; width: 60px; height: 15px;"></div>
	monthly	<div style="border: 1px solid black; width: 60px; height: 15px;"></div>
	quarterly	<div style="border: 1px solid black; width: 60px; height: 15px;"></div>
	semiannual	<div style="border: 1px solid black; width: 60px; height: 15px;"></div>
	annual	<div style="border: 1px solid black; width: 60px; height: 15px;"></div>
	single event	<div style="border: 1px solid black; width: 60px; height: 15px; text-align: center;">X</div>

Violation Base Penalty

\$1,000

One single event is recommended based on documentation of the violation during the August 29, 2006 investigation.

Economic Benefit (EB) for this violation**Statutory Limit Test****Estimated EB Amount**

\$100

Violation Final Penalty Total

\$1,050

This violation Final Assessed Penalty (adjusted for limits)

\$1,050

Economic Benefit Worksheet**Respondent** Brazos Valley Petroleum Corporation dba In & Out 7**Case ID No.** 31582**Reg. Ent. Reference No.** RN102482346**Media [Statute]** Petroleum Storage Tank**Violation No.** 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost No commas or \$	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0
Notes for DELAYED costs				n/a			

Avoided Costs							
ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)							
Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)	\$100	02-Jun-2006	03-Jun-2006	0.0	\$0	\$100	\$100
Notes for AVOIDED costs				Estimated cost to notify the agency. The Date Required is the date of the suspected release and the Final Date is the date the report was due.			

Approx. Cost of Compliance **\$100****TOTAL** **\$100**

Screening Date	30-Oct-2006	Docket No.	2006-1872-PST-E	PCW
Respondent	Brazos Valley Petroleum Corporation dba In & Out 7			<i>Policy Revision 2 (September 2002)</i>
Case ID No.	31582			<i>PCW Revision May 19, 2005</i>
Reg. Ent. Reference No.	RN102482346			
Media [Statute]	Petroleum Storage Tank			
Enf. Coordinator	Deana Holland			
Violation Number	<input type="text" value="2"/>			
Primary Rule Cite(s)	<input type="text" value="30 Tex. Admin. Code § 334.10(b)"/>			
Secondary Rule Cite(s)	<input type="text"/>			
Violation Description	<div style="border: 1px solid black; padding: 5px;"> <p>Failed to maintain all UST records and make available for inspection to Commission personnel upon request. Specifically, the required records for inventory control water level checks, overfill prevention, financial assurance, annual line leak detector test and release detection were not available.</p> </div>			
Base Penalty	<input type="text" value="\$10,000"/>			

>> **Environmental, Property and Human Health Matrix**

	Harm			
Release	Major	Moderate	Minor	
Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	Percent <input type="text"/>
Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	

>> **Programmatic Matrix**

	Falsification	Major	Moderate	Minor	
	<input type="text"/>	<input checked="" type="text" value="X"/>	<input type="text"/>	<input type="text"/>	Percent <input type="text" value="10%"/>
Matrix Notes	<input type="text" value="100% of the rule requirement was not met."/>				

Adjustment **Base Penalty Subtotal** **Violation Events**Number of Violation Events

mark only one use a small x	daily	<input type="text"/>
	monthly	<input type="text"/>
	quarterly	<input type="text"/>
	semiannual	<input type="text"/>
	annual	<input type="text"/>
	single event	<input checked="" type="text" value="X"/>

Violation Base Penalty

One single event is recommended based on documentation of the violation during the August 29, 2006 investigation.

Economic Benefit (EB) for this violation**Statutory Limit Test****Estimated EB Amount** **Violation Final Penalty Total** **This violation Final Assessed Penalty (adjusted for limits)**

Economic Benefit Worksheet

Respondent Brazos Valley Petroleum Corporation dba In & Out 7

Case ID No. 31582

Reg. Ent. Reference No. RN102482346

Media [Statute] Petroleum Storage Tank

Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							
Delayed Costs							
Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System	\$100	29-Aug-2006	01-Jul-2007	0.8	\$4	n/a	\$4
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

The estimated cost to maintain required records. The Date Required is the date of the investigation and the Final Date is the estimated date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering Item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

n/a

Approx. Cost of Compliance **\$100****TOTAL** **\$4**

Screening Date	30-Oct-2006	Docket No.	2006-1872-PST-E	PCW
Respondent	Brazos Valley Petroleum Corporation dba In & Out 7			<i>Policy Revision 2 (September 2002)</i>
Case ID No.	31582			<i>PCW Revision May 19, 2005</i>
Reg. Ent. Reference No.	RN102482346			
Media [Statute]	Petroleum Storage Tank			
Enf. Coordinator	Deana Holland			
Violation Number	<input type="text" value="3"/>			
Primary Rule Cite(s)	<input type="text" value="30 Tex. Admin. Code § 334.74(3)"/>			
Secondary Rule Cite(s)	<input type="text"/>			
Violation Description	<input type="text" value="Failed to immediately investigate and confirm a suspected release of regulated substances at an UST within 30 days."/>			
Base Penalty	<input type="text" value="\$10,000"/>			

>> **Environmental, Property and Human Health Matrix**

		Harm			
	Release	Major	Moderate	Minor	
OR	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	Percent <input type="text" value="25%"/>
	Potential	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	

>> **Programmatic Matrix**

		Falsification	Major	Moderate	Minor	
		<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	Percent <input type="text"/>
Matrix Notes	<input type="text" value="Human health or the environment will or could be exposed to pollutants which would exceed levels that are protective of human health or environmental receptors as a result of the violation."/>					

Adjustment **Base Penalty Subtotal** **Violation Events****Number of Violation Events**

mark only one use a small x	daily	<input type="text"/>
	monthly	<input checked="" type="checkbox"/>
	quarterly	<input type="text"/>
	semiannual	<input type="text"/>
	annual	<input type="text"/>
	single event	<input type="text"/>

Violation Base Penalty

Economic Benefit (EB) for this violation**Statutory Limit Test****Estimated EB Amount** **Violation Final Penalty Total** **This violation Final Assessed Penalty (adjusted for limits)**

Economic Benefit Worksheet

Respondent Brazos Valley Petroleum Corporation dba In & Out 7
 Case ID No. 31582
 Reg. Ent. Reference No. RN102482346
 Media [Statute] Petroleum Storage Tank
 Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost No commas or \$	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)	\$500	02-Jul-2006	01-Jul-2007	1.0	\$2	\$33	\$35
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to investigate the suspected release. The Date Required is 30 days after the discovery of the suspected release and the Final Date is the estimated date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

n/a

Approx. Cost of Compliance **\$500****TOTAL** **\$35**

Compliance History

Customer/Respondent/Owner-Operator:	CN601277320	Brazos Valley Petroleum Corporation	Classification: AVERAGE	Rating: 4.50
Regulated Entity:	RN102482346	IN & OUT 7	Classification: AVERAGE	Site Rating: 4.50
ID Number(s):	PETROLEUM STORAGE TANK REGISTRATION		REGISTRATION	57663
Location:	100 WEST FWY, VIDOR, TX, 77662		Rating Date: September 01 06	Repeat Violator: NO
TCEQ Region:	REGION 10 - BEAUMONT			
Date Compliance History Prepared:	October 24, 2006			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	October 24, 2001 to October 24, 2006			

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: Deana Holland Phone: 239-2504

Site Compliance History Components

- | | |
|--|------------|
| 1. Has the site been in existence and/or operation for the full five year compliance period? | Yes |
| 2. Has there been a (known) change in ownership of the site during the compliance period? | No |
| 3. If Yes, who is the current owner? | <u>N/A</u> |
| 4. If Yes, who was/were the prior owner(s)? | <u>N/A</u> |
| 5. When did the change(s) in ownership occur? | <u>N/A</u> |

Components (Multimedia) for the Site :

A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.
N/A

B. Any criminal convictions of the state of Texas and the federal government.
N/A

C. Chronic excessive emissions events.
N/A

D. The approval dates of investigations. (CCEDS Inv. Track. No.)
1 08/15/2006 (485120)

E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

N/A

Date: 08/14/2006 (485120)

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 115, SubChapter C 115.246(7)(A)

Description: Failure to maintain records on-site and make immediately available for review upon request by authorized representatives of the executive director.

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 115, SubChapter C 115.248(1)[G]

Description: Failure to have employees trained on the Stage II system operation.

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 115, SubChapter C 115.242(3)(A)

Description: Failure to have swivel adapters installed.

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
BRAZOS VALLEY PETROLEUM
CORPORATION DBA
IN & OUT 7
RN102482346

§ BEFORE THE
§
§
§ TEXAS COMMISSION ON
§
§
§ ENVIRONMENTAL QUALITY

AGREED ORDER DOCKET NO. 2006-1872-PST-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Brazos Valley Petroleum Corporation dba In & Out 7 ("Brazos Valley Petroleum") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and Brazos Valley Petroleum appear before the Commission and together stipulate that:

1. Brazos Valley Petroleum owns and operates a convenience store with retail sales of gasoline at 100 West Freeway in Vidor, Orange County, Texas (the "Facility").
2. Brazos Valley Petroleum's four underground storage tanks ("USTs") are not exempt or excluded from regulation under the Texas Water Code or the rules of the Commission.
3. The Commission and Brazos Valley Petroleum agree that the Commission has jurisdiction to enter this Agreed Order, and that Brazos Valley Petroleum is subject to the Commission's jurisdiction.
4. Brazos Valley Petroleum received notice of the violations alleged in Section II ("Allegations") on or about October 25, 2006.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Brazos Valley Petroleum of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Twelve Thousand Six Hundred Dollars (\$12,600) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Brazos Valley Petroleum has paid Four Hundred Eight Dollars (\$408) of the administrative penalty

and Two Thousand Five Hundred Twenty Dollars (\$2,520) is deferred contingent upon Brazos Valley Petroleum's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If Brazos Valley Petroleum fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require Brazos Valley Petroleum to pay all or part of the deferred penalty.

The remaining amount of Nine Thousand Six Hundred Seventy-Two Dollars (\$9,672) of the administrative penalty shall be payable in 24 monthly payments of Four Hundred Three Dollars (\$403) each. The next monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment until paid in full. If Brazos Valley Petroleum fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, the Executive Director may, at the Executive Director's option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, the failure of Brazos Valley Petroleum to meet the payment schedule of this Agreed Order constitutes the failure by Brazos Valley Petroleum to timely and satisfactorily comply with all the terms of this Agreed Order.

7. Any notice and procedures which might otherwise be authorized or required in this action are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and Brazos Valley Petroleum have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that Brazos Valley Petroleum has not complied with one or more of the terms or conditions in this Agreed Order.
10. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
11. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Facility, Brazos Valley Petroleum is alleged to have:

1. Failed to report a suspected release to the TCEQ within 24 hours of the discovery, in violation of 30 TEX. ADMIN. CODE § 334.72(2), as documented during an investigation conducted on August 29, 2006. Specifically, the water intrusion within the super unleaded tank on June 2, 2006 indicated a suspected release that was not reported.

⁵ *Journal of the American Medical Association*, 273 (1995), 1033-1034.

THE UNIVERSITY OF CHICAGO

1. *Chlorophyll a* (Chl *a*)

2. Failed to maintain all UST records and make available for inspection to Commission personnel upon request, in violation of 30 TEX. ADMIN. CODE § 334.10(b), as documented during an investigation conducted on August 29, 2006. Specifically, the required records for inventory control, water level checks, overfill prevention, financial assurance, annual line leak detector test and release detection were not available.
3. Failed to immediately investigate and confirm a suspected release of regulated substances at a UST within 30 days, in violation of 30 TEX. ADMIN. CODE § 334.74(3), as documented during an investigation conducted on August 29, 2006.

III. DENIALS

Brazos Valley Petroleum generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that Brazos Valley Petroleum pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and Brazos Valley Petroleum's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Brazos Valley Petroleum Corporation dba In & Out 7, Docket No. 2006-1872-PST-E" to:

Financial Administration Division, Revenues Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. It is further ordered that Brazos Valley Petroleum shall undertake the following technical requirements:
 - a. Within 30 days after the effective date of this Agreed Order:
 - i. Establish and implement a process for reporting a suspected release, in accordance with 30 TEX. ADMIN. CODE § 334.72;
 - ii. Conduct an investigation of the suspected release and implement appropriate corrective measures, in accordance with 30 TEX. ADMIN. CODE § 334.74; and
 - iii. Begin maintaining all UST records, in accordance with 30 TEX. ADMIN. CODE § 334.10.

- b. Within 45 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provisions Nos. 2.a.i through 2.a.iii.

The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

The Certification shall be submitted to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

Waste Section Manager
Beaumont Regional Office
Texas Commission on Environmental Quality
3870 Eastex Freeway
Beaumont, Texas 77703-1830

3. The provisions of this Agreed Order shall apply to and be binding upon Brazos Valley Petroleum. Brazos Valley Petroleum is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. If Brazos Valley Petroleum fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, Brazos Valley Petroleum's failure to comply is not a violation of this Agreed Order. Brazos Valley Petroleum shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Brazos Valley Petroleum shall notify the Executive Director within seven days after Brazos Valley Petroleum becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.

...the ... of ... and ...
...the ... of ... and ...
...the ... of ... and ...

...the ... of ... and ...
...the ... of ... and ...
...the ... of ... and ...

...the ... of ... and ...
...the ... of ... and ...
...the ... of ... and ...

...the ... of ... and ...
...the ... of ... and ...
...the ... of ... and ...
...the ... of ... and ...
...the ... of ... and ...

...the ... of ... and ...
...the ... of ... and ...
...the ... of ... and ...
...the ... of ... and ...
...the ... of ... and ...

...the ... of ... and ...
...the ... of ... and ...
...the ... of ... and ...
...the ... of ... and ...
...the ... of ... and ...

...the ... of ... and ...
...the ... of ... and ...
...the ... of ... and ...
...the ... of ... and ...
...the ... of ... and ...

...the ... of ... and ...
...the ... of ... and ...
...the ... of ... and ...
...the ... of ... and ...
...the ... of ... and ...

5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by Brazos Valley Petroleum shall be made in writing to the Executive Director. Extensions are not effective until Brazos Valley Petroleum receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. This Agreed Order, issued by the Commission, shall not be admissible against Brazos Valley Petroleum in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
7. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to Brazos Valley Petroleum, or three days after the date on which the Commission mails notice of the Order to Brazos Valley Petroleum, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

THE UNIVERSITY OF CHICAGO
DIVISION OF THE PHYSICAL SCIENCES
DEPARTMENT OF CHEMISTRY

REPORT OF THE
COMMISSION ON THE
STRUCTURE OF THE
ATOMIC NUCLEUS
AND THE
PROPERTIES OF
THE ELEMENTS

THE UNIVERSITY OF CHICAGO
DIVISION OF THE PHYSICAL SCIENCES
DEPARTMENT OF CHEMISTRY
CHICAGO, ILLINOIS

THE UNIVERSITY OF CHICAGO
DIVISION OF THE PHYSICAL SCIENCES
DEPARTMENT OF CHEMISTRY
CHICAGO, ILLINOIS

THE UNIVERSITY OF CHICAGO
DIVISION OF THE PHYSICAL SCIENCES
DEPARTMENT OF CHEMISTRY
CHICAGO, ILLINOIS

THE UNIVERSITY OF CHICAGO
DIVISION OF THE PHYSICAL SCIENCES
DEPARTMENT OF CHEMISTRY
CHICAGO, ILLINOIS

THE UNIVERSITY OF CHICAGO
DIVISION OF THE PHYSICAL SCIENCES
DEPARTMENT OF CHEMISTRY
CHICAGO, ILLINOIS

THE UNIVERSITY OF CHICAGO
DIVISION OF THE PHYSICAL SCIENCES
DEPARTMENT OF CHEMISTRY
CHICAGO, ILLINOIS

THE UNIVERSITY OF CHICAGO
DIVISION OF THE PHYSICAL SCIENCES
DEPARTMENT OF CHEMISTRY
CHICAGO, ILLINOIS

THE UNIVERSITY OF CHICAGO
DIVISION OF THE PHYSICAL SCIENCES
DEPARTMENT OF CHEMISTRY
CHICAGO, ILLINOIS

THE UNIVERSITY OF CHICAGO
DIVISION OF THE PHYSICAL SCIENCES
DEPARTMENT OF CHEMISTRY
CHICAGO, ILLINOIS

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

For the Executive Director

Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity, if any, indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that my failure to comply with the Ordering Provisions, if any, in this order and/or my failure to timely pay the penalty amount, may result in:

- A negative impact on my compliance history;
- Greater scrutiny of any permit applications submitted by me;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions against me;
- Automatic referral to the Attorney General's Office of any future enforcement actions against me; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

Signature

Date

Name (Printed or typed)

Title

Authorized Representative of

Brazos Valley Petroleum Corporation dba In & Out 7

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.

